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ALPHA & OMEGA SEMICONDUCTOR, INC.  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ALPHA & OMEGA SEMICONDUCTOR,  
INC., a California corporation; and  
ALPHA & OMEGA SEMICONDUCTOR,  
LTD., a Bermuda corporation,

Plaintiffs,

v.

FAIRCHILD SEMICONDUCTOR  
CORP., a Delaware corporation,

Defendant.

AND RELATED COUNTERCLAIMS

Case No. 07-2638 JSW (EDL)  
(Consolidated with Case No. 07-2664 JSW)

**OPPOSITION TO FAIRCHILD'S MOTION  
TO CONTINUE THE HEARING DATE  
FOR AOS'S PENDING MOTION TO  
STRIKE<sup>1</sup> PURSUANT TO CIV. L.R. 6-3**

<sup>1</sup> Fairchild's motion is entitled "Fairchild Semiconductor Corporation's Notice of Motion and Motion To Change Time To Consolidate The Hearing Dates On Discovery Motions."

OPPOSITION TO FAIRCHILD'S MOTION TO  
CONTINUE, CASE NO. 07-2638 JSW (EDL)  
(CONSOL. WITH CASE NO. 07-2664 JSW)

**OPPOSITION TO MOTION TO CONTINUE**

On October 23, 2007, Plaintiffs Alpha & Omega Semiconductor, Inc. and Alpha & Omega Semiconductor, Ltd. (collectively, “AOS”) filed a motion to strike the Patent Local Rule 3.1 Disclosure (“PICs”) of Defendant Fairchild Semiconductor Corporation (“Fairchild”). That motion was properly filed after AOS’s efforts to meet and confer with Fairchild failed to resolve the issue raised by AOS’s motion, and was properly noticed for November 27 - the first available hearing date that was not less than thirty-five days after filing of the motion.

Approximately two weeks later, and the day before its opposition was due, Fairchild asked AOS’s counsel to continue the hearing date for that motion. AOS properly refused, informing Fairchild that AOS expected it would soon have to file its own motion to compel and that it would make more sense to have both motions to compel heard together at a later date. Fairchild then filed the instant motion, seeking to postpone the hearing date on AOS’s motion to December 11, 2007.

Fairchild’s motion should be denied for at least the following reasons.

*First*, Fairchild’s assertion that AOS’s motion and Fairchild’s later filed motions all “involve overlapping issues, that hearing all the pending motions at the same time would be more efficient for the Court and the parties, and that it would ensure the most reasonable and effective resolution of the motions” is simply wrong. *See* Motion to Continue, Docket #65, at 2:11-14. AOS’s motion to strike is directed at Fairchild’s attempt to evade the requirements of Patent L.R. 3.1 in a very specific and novel way: by indiscriminately accusing 342 AOS products – every product on AOS’s internet “MOSFET selection guide” - based on a disclosure regarding only 14 products plus an assertion that all of the products are the same. *See* AOS’s Motion to Strike, Docket #51. AOS has not taken this approach in its Patent L.R. 3-1 disclosure. Fairchild’s recently filed motion to strike challenges AOS’s disclosure on different grounds.

*Second*, Fairchild’s suggestion that all discovery motions can or should be heard at the same time fails for another reason: there necessarily will be more than one hearing on the parties’ discovery motions. Fairchild knows that AOS expects to file its own motion to compel directed at Fairchild’s insufficient responses to AOS’s written discovery requests and directed to a similar

1 issue regarding the definition of “Accused Fairchild Devices.” *See* Declaration of Harry Doscher,  
 2 ¶ 6.<sup>2</sup> Absent an order shortening time, that motion cannot be noticed for hearing any sooner than  
 3 December 18, 2007. Thus, continuing the hearing on AOS’s motion to strike to December 11  
 4 will not, as Fairchild requests, result in a single hearing on all parties’ discovery motions.

5 *Third*, Fairchild’s motion to compel (Docket #57) presumes that Fairchild’s Patent L.R. 3-  
 6 1 Disclosures (“PICs”) are proper – the very issue raised by AOS’s pending motion to strike:

7 In its Disclosure of Asserted Claims and Preliminary Infringement  
 8 Contentions (“PICs”), Fairchild specifically identified 342 AOS  
 9 power MOSFET products as infringing Fairchild’s asserted patents.  
 10 AOS seeks to limit its discovery obligations in this case to eighteen  
 11 AOS products . . . Fairchild has accused all of AOS’s trench power  
 12 MOSFET and IGBT products, whether sold by themselves or in  
 13 modules with other electronic devices, and provided PICs  
 14 explaining how the asserted claims of the Fairchild patents read on  
 15 the accused products. AOS’s attempts to limit its discovery  
 16 obligations to a small subset of those products should be rejected,  
 17 and AOS should be ordered to produce discovery on all of its  
 18 accused trench power MOSFET and IGBT products.

19 *See* Fairchild’s Motion to Compel, Docket #57, at 1:19-2:18. Thus, rather than postpone the  
 20 hearing on AOS’s *motion to strike* Fairchild’s PICs, it would make far more sense to postpone the  
 21 hearing on Fairchild’s *motion to compel* until after the Court has resolved the issue raised by  
 22 AOS’s motion to strike regarding the sufficiency of Fairchild’s PICs.

23 *Fourth*, AOS would be prejudiced if Fairchild’s motion to continue is granted. Based on  
 24 its insufficient PICs – the very subject of AOS’s motion to strike – Fairchild is pressing AOS for  
 25 complete discovery regarding 342 of AOS’s power MOSFET products. *See, e.g.*, Fairchild’s  
 26 Motion to Compel, Docket #57, at 4:10-26. AOS is entitled to have the issue raised by its motion  
 27 to strike resolved as soon as possible.

28 <sup>2</sup> What Fairchild does not reveal in its recently filed motion to compel, docket #57, is that AOS  
 has similar problems with Fairchild’s discovery responses – specifically, but not only, Fairchild’s  
 attempt to limit AOS’s discovery regarding “accused products” – as Fairchild complains about in  
 its motion with respect to AOS’s discovery responses. In short, Fairchild has tried to gain some  
 perceived tactical advantage by filing its motion first, even though it knew from meet and confer  
 correspondence that AOS expects to file a motion directed at a similar issue.

1 Dated: November 9, 2007

MORGAN, LEWIS & BOCKIUS LLP

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3 By: /s/ Brett M. Schuman

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